



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 26, 1996

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Texas State Comptroller's Office  
111 East 17th Street  
Austin, Texas 78774

OR96-2226

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 37767.

The Texas State Comptroller's Office (the "Comptroller") received a request from a non-selected applicant for the position of Accounts Examiner I for all information leading to the selection of an individual to fill the position. You state that certain information has been provided to the requestor, but assert the interview questions given to the requestor during the interview process are excepted from disclosure under section 552.122(b) of the Government Code as test items developed by a governmental body. You have marked the items you believe are excepted from disclosure.

Section 552.122(b) excepts test items developed by a governmental body. In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122(b) "includes any standard means by which an individual's or group's knowledge or ability in a particular area is evaluated." Open Records Decision No. 626 (1994) at 6. Whether information falls within the section 552.122(b) exception must be determined on a case-by-case basis. *Id.*

We have examined the information you contend is excepted from disclosure under section 552.122(b). We conclude some of this information does not fall within the exception because it does not test the applicant's knowledge or ability in a particular area. Accordingly, you may not withhold from disclosure the following questions and accompanying answers contained in the submitted documents labeled "Accounts Examiner

I - Second Interview -Tax Policy Division - Tax Assistance Section": questions 5, 8, 9, 14, and 18, which we have marked with green tags. The remaining information that you marked may be withheld from required public disclosure as test items under section 552.122(b).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/ch

Ref.: ID# 37767

Enclosures: Marked documents

cc: Mr. Mario Garcia  
2200 Whitestone Drive  
Austin, Texas 78745  
(w/o enclosures)